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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-480

13 **MATTHEW BRIAN WINGATE**
14 **aka MATHEW WINGATE**
15 **304 Holly Lane**
16 **Headland, AL 36345**

A C C U S A T I O N

17 **Registered Nurse License No. 624254**

Respondent.

18 Louise R. Bailey, M.Ed., RN ("Complainant") alleges:

19 **PARTIES**

20 1. Complainant brings this Accusation solely in her official capacity as the Executive
21 Officer of the Board of Registered Nursing ("Board"), Department of Consumer Affairs.

22 2. On or about August 14, 2003, the Board issued Registered Nurse License Number
23 624254 to Matthew Brian Wingate, also known as Mathew Wingate ("Respondent"). The license
24 was in full force and effect at all times relevant to the charges brought herein. The license
25 expired on January 31, 2007, and has not been renewed.

26 **JURISDICTION**

27 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that
28 the Board may discipline any licensee, including a licensee holding a temporary or an inactive

1 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing
2 Practice Act.

3 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not
4 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
5 to render a decision imposing discipline on the license. Under Code section 2811(b), the Board
6 may renew an expired license at any time within eight years after the expiration.

7 STATUTORY PROVISIONS

8 5. Code section 2761 states, in pertinent part:

9 The board may take disciplinary action against a certified or licensed nurse or
10 deny an application for a certificate or license for the following:

11 (a) Unprofessional conduct...

12 (4) Denial of licensure, revocation, suspension, restriction, or any other
13 disciplinary action against a health care professional license or certificate by another
14 state or territory of the United States, by any other government agency, or by another
California health care professional licensing board. A certified copy of the decision
or judgment shall be conclusive evidence of that action.

15 COST RECOVERY

16 6. Code section 125.3 provides, in pertinent part, that the Board may request the
17 administrative law judge to direct a licensee found to have committed a violation or violations of
18 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
19 enforcement of the case.

20 FIRST CAUSE FOR DISCIPLINE

21 (Out-of-State Discipline)

22 7. Respondent is subject to discipline under Code section 2761(a)(4), in that effective
23 May 21, 2010, pursuant to a Consent Order ("Order") issued by the Alabama State Board of
24 Nursing, in a disciplinary proceeding titled, *In the Matter of Matthew Brian Wingate, License No.*
25 *1-097430 ABN Case No. 2010-0636*, Respondent's registered nursing license number 1-097430
26 was placed on probation for a period of twelve (12) months with terms and conditions. The Order
27 was based on numerous Findings of Fact and Conclusions of Law, including the following: 1)
28 Respondent tested positive for butalbital while taking a post-injury drug test without holding a

1 valid prescription for that medication. The Order is attached hereto as **Exhibit A** and
2 incorporated herein by reference.

3 **PRAYER**

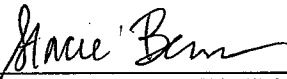
4 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
5 and that following the hearing, the Board of Registered Nursing issue a decision:

6 1. Revoking or suspending Registered Nurse License Number 624254, issued to
7 Matthew Brian Wingate, also known as Mathew Wingate;

8 2. Ordering Matthew Brian Wingate, also known as Mathew Wingate to pay the Board
9 of Registered Nursing the reasonable costs of the investigation and enforcement of this case,
10 pursuant to Code section 125.3; and,

11 3. Taking such other and further action as deemed necessary and proper

12 DATED: DECEMBER 11, 2012

for 
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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